

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

16-M-1047

ROBERTO LEON,

Defendant.

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**MOTION TO ADJOURN THE RULE 48(b) DISMISSAL DATE AND FOR  
ADDITIONAL EXCLUSION OF TIME UNDER THE SPEEDY TRIAL ACT**

**THE UNITED STATES OF AMERICA**, by and through its attorneys, William J. Hochul, Jr., United States Attorney, and Brendan T. Cullinane, Assistant United States Attorney, of counsel, hereby moves the Court for an adjournment of the Rule 48(b) dismissal date set for August 22, 2016, and for additional exclusion of time under the Speedy Trial Act. Counsel for the defendant, Michael M. Blotnik, consents to and joins in the relief sought herein.

**DATED:** Buffalo, New York, August 19, 2016.

WILLIAM J. HOCHUL, JR.  
United States Attorney

BY: s/BRENDAN T. CULLINANE  
Assistant United States Attorney  
United States Attorney's Office  
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**AFFIDAVIT**

STATE OF NEW YORK     )  
COUNTY OF ERIE         )     SS:  
CITY OF BUFFALO         )

**BRENDAN T. CULLINANE**, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and assigned to my office's case file in the above captioned matter. This affidavit is submitted in support of the government's motion to adjourn the Rule 48(b) dismissal set for August 22, 2016, at 12:00 p.m. and for additional exclusion of time under the Speedy Trial Act. The adjournment will also give counsel for the defendant, Michael M. Blotnik, sufficient time to provide the effective assistance of counsel.

2. On June 22, 2016, the parties appeared before the Court for the continued detention hearing in this matter. At the conclusion of the continued detention hearing, the Court granted the parties request to schedule a Rule 48(b) date in this matter.

3. Since the time of the June 22, 2016, detention hearing, the government has provided voluntary discovery to defense counsel. The parties have also discussed a plea resolution in this matter and will continue to discuss a resolution.

4. The government, with the consent of the defendant's counsel, now moves to adjourn the Rule 48(b) dismissal date for a period of approximately sixty (60) days to permit the parties to continue pre-indictment plea negotiations. By this affidavit, the government, with the consent of counsel for the defendant, moves for an exclusion of speedy trial time from and including August 22, 2016, to and including October 20, 2016, pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and (h)(7)(B)(iv), and Rule 5.1 of the Federal Rules of Criminal Procedure.

5. The defendant's interest in continuity of effective assistance of counsel, all while continuing plea negotiations with the government and reviewing voluntary discovery, outweighs the interest of the defendant in a speedy trial. Based on the foregoing representations, the exclusion of time in this matter is in the interest of justice and not contrary to the interests of the public and the defendants in a speedy trial pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv), and Rule 5.1 of the Federal Rules of Criminal Procedure.

**WHEREFORE**, for all of the foregoing reasons, it is respectfully requested that the Rule 48(b) dismissal date be set for October 20, 2016, and that the time from and including August 22, 2016, to and including October 20, 2016, be excluded from the Speedy Trial Act.

s/BRENDAN T. CULLINANE  
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Western District of New York  
138 Delaware Avenue  
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716/843-5875  
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Subscribed and sworn to before me

this 19th day of August, 2016.

s/JENNIFER PETRUSO, NOTARY PUBLIC  
State of New York, County of Erie  
My commission expires on March 24, 2020.